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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,811	04/24/2001	Antonius Ludovicus Johannes Cornelis Heijnen	NL 000251	5938

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

SMITH, CREIGHTON H

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/840,811	Applicant(s) HEIJNEN, ANTONIUS LUDOVICUS JOHANNES CO	
	Examiner Creighton H. Smith	Art Unit 2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 FEB '06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 8-10 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Examiner does not understand how part of a telephone signal is routed thru one gateway (4) to the PSTN and another part of that same telephone signal is routed through a "further" gateway onto the CATV network. This does not make sense in view of applicant's disclosure of routing local phone calls through least cost router/gateway (4), and long distance calls through CATV set-top box (8). It seems to the examiner, based on what applicant is trying to accomplish by routing the local calls through gateway (4) and long distance calls through gateway (8), one phone call is going to be routed through only one gateway and not be broken up by routing it through multiple gateways.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by

Kung et al, U.S. patent Publication #20030133558.

In [0046] Kung et al disclose that the Broadband Residential gateway 300 may be coupled to one or more cable modems, IP phones, POTS phones, computers, wireless devices, video phones, or CATV converter. This is the same as applicant is proposing to do on page 2, line 12, "[b]y means of the further telephone gateway, which may be comprised in a set-top box. The residential communication system interfaces with the further non-residential telephone network, e.g., a CATV network which offers phone service." Therefore, when Kung et al disclose in [0046] that their BRG-300 is coupled to one or more of the above mentioned devices, this means that at least part of (and possibly 100%) of the out-going phone signals are supplied to a further non-residential phone network (the CATV network, through the use of CATV converters [0046]). Kung et al "set-top" box is clearly shown as element 350 in Fig. 3, and fully disclosed in [0080,0081]. Kung et al "station" is CPE-102 and the non-residential phone networks read upon the PSTN-160, and the cable TV network (not shown, but accessed through set-top box 350).

Kung et al Fig. 3 shows a residential communication system comprising gateway (300), and describes it in [0028] that it may be separated into more than one physical device allowing functionality to be distributed to a plurality of different locations in the customer premises or network 1. In [0050], Kung et al disclose a least cost router **255** that enables Kung's system to determine to determine the least cost routing of telephone and data transmission throughout the network. Router **255** also provides gateway users the capability to select between cost and QoS. Fig. 2 of Kung et al shows multiple gateways **230, 232, 234, 236, 238, 240** along with least cost router **255**.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

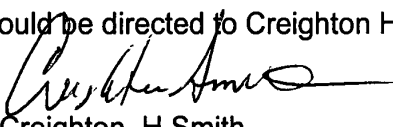
Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kung et al in view of Amit - U.S. patent Publication #2004/0107445.

Amit discloses in [0004 & 0005] home networking solutions over existing telephone wiring, i.e., HomePNA. To have used Amit's HomePNA in Kung et al apparatus would have been obvious to a person having ordinary skill in the art, because of Kung's disclosure in [0026] of the broadband network carrying signals between the customer premises and the PSTN.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rabenko et al, Wu.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

20 MAR '06


Creighton H Smith
Primary Examiner
Art Unit 2645